

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH DAKOTA
WESTERN DIVISION

BRANDI SHANNON, Plaintiff, vs. KILOLO KIJAKAZI, ACTING COMMISSIONER OF THE SOCIAL SECURITY ADMINISTRATION; Defendant.	5:20-CV-05037-DW ORDER DENYING MOTION FOR ATTORNEY'S FEES AND GRANTING MOTION TO WITHDRAW MOTION FOR ATTORNEY'S FEES
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Plaintiff filed a motion for attorney's fees under the equal access to justice act (EAJA). (Doc. 38). Defendant objected to Plaintiff's motion arguing that Plaintiff is not a prevailing party for purposes of the EAJA because the court remanded the case pursuant to sentence six for further administrative proceedings and as such, there has been no final judgment entered by the court. (Doc. 41). Plaintiff agreed with Defendant's objection and filed a motion to withdraw their motion for attorney's fees, reserving the right to renew the motion upon completion of the post remand proceedings. (Doc. 42).

Accordingly, it is hereby

ORDERED that Plaintiff's motion for attorney's fees (Doc. 38) is denied as moot, without prejudice to refile upon completion of post remand proceedings, and it is further

ORDERED that Plaintiff's motion to withdraw their motion for attorney's fees (Doc. 42) granted.

DATED this 20th day of January, 2022.

BY THE COURT:

A handwritten signature in black ink, appearing to read 'Daneta Wollmann', is written over a horizontal line.

DANETA WOLLMANN
United States Magistrate Judge